



LEGAL BRIEFS

From the Fort Knox Legal Assistance Office

SMALL CLAIMS COURT

Can Small Claims Court Help Me?

If you and your legal assistance attorney are unable to resolve your money-related case, small claims court may be your next avenue of approach to find an effective resolution to your situation. For cases where someone owes you a relatively small amount of money, or for cases that involve the rendering of low-cost personal services, small claims court provides you the forum to acquire a court judgment. That judgment can require the other person to pay you what he owes, or in other words, to make the situation right. In small claims court you have the opportunity to stand-up for yourself, and to do so without the time and cost normally associated with a lawsuit. You can handle it on your own without hiring a civilian attorney, and you can get that win you're looking for.

Procedures:

Small claims court provides a simplified procedure for recovering money damages. To initiate your claim, you should contact the office of the circuit court clerk for the county where the person who owes you money lives. For persons living on Fort Knox, Hardin County actually has two courthouses that can assist you. The Radcliff courthouse is located off of West Lincoln Trail Boulevard (parallel to Wal-Mart). The clerk's office is on the second floor of the building. The Elizabethtown courthouse is located just off of the town circle. The clerk's office is on the building's first floor. It costs \$38.00 (an \$18.00 filing fee plus a \$20.00 fee for the sheriff to serve your claim on the named defendant). You pay the \$18.00 at the clerk's office and the separate \$20.00 at the sheriff's office. A deputy clerk can help you fill-out (in duplicate) a small claims complaint stating the circumstances of your case. With that, you can recover up to \$1,500.00.

The defendant you name is served with notice of your claim and is informed of the date and time to appear. Keep in mind the defendant can counterclaim against you, which means you could lose your case, and end up owing the defendant up to \$1,500.00.

You need to appear on the date and time the clerk gives you. You bring your witnesses and other evidence and tell your side of the story, and the defendant gets to do the same. You don't need a lawyer (although Kentucky law allows you to hire one if you wish; most businesses do) and there are no formal rules of evidence or procedure, so it's a bit like The People's Court.

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What Can the Defendant Do?

The defendant has the right to ask the court to move the case out of small claims court. If this happens, your case will proceed on a different day as a regular civil lawsuit in district court. If your case is moved from small claims court, you should get a civilian attorney to represent you, since the normal rules of procedure and evidence will apply. However, most cases aren't moved from small claims court. Defendants usually want to resolve the case as quickly as you do, and keeping the case in small claims court is often the best way to do this.

Getting a Judgment:

If the defendant is served with your complaint and fails to show up for trial, the court will issue a default judgment on your behalf, which is like winning by forfeit. If you win a judgment, however, whether by default or otherwise, it doesn't necessarily mean you'll see your money right away. Either side may appeal up to the county's circuit court. In addition, whatever judgment you win still requires enforcement to get you any money. If the defendant can't pay (if he doesn't have any money he is referred to as "judgment-proof"), you might have to try to garnish his wages or have the sheriff seize and then sell his property.

What Legal Assistance Can Do:

We can help you fill out the small claims complaint and we can discuss your case with you and help decide if you have a decent claim. If you need help, please feel free to call us to schedule an appointment or for more information. Our telephone number is (502) 624-2771, and our hours of operation are Monday through Friday, 0800-1600. We are located in the Office of the Staff Judge Advocate, Building 1310, Pike Hall (north of the post office on Knox Street).